

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

GRETCHEN S. STUART, M.D., et al.,)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION
)	
JANICE E. HUFF, M.D., et al.,)	Case No. 1:11-cv-00804
)	
Defendants.)	

**PLAINTIFFS' MOTION FOR LEAVE TO FILE
A SECOND AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 15(a)(2), Plaintiffs hereby move this Court for an order granting them leave to file a second amended complaint in this action to remove the Fifth, Sixth, Eighth, and Tenth Claims for Relief contained in the Amended Complaint. Plaintiffs allege the following:

1. Plaintiffs filed an Amended Complaint on December 1, 2011 (ECF No. 57, 57-1), which set forth ten claims for relief.
2. The proposed Second Amended Complaint is almost identical to Plaintiffs' Amended Complaint previously filed in this action, except for the following: (1) the deletion of what was formerly the Fifth Claim for Relief (Fourteenth Amendment Right to Bodily Integrity), the Sixth Claim for Relief (Fourth Amendment Rights of Patients), the Eighth Claim for Relief (First and Fourteenth Amendment Rights of Patients), and the Tenth Claim for Relief (Equal Protection—Discrimination Against Abortion Providers); (2) the deletion of paragraphs 75 and 84, to reflect the deletion of the aforementioned

claims for relief; and (3) the resultant renumbering of the previous paragraphs 75 through 101, to reflect those changes.

3. Rule 15(a)(2) provides that “a party may amend its pleading . . . with the opposing party’s written consent or the court’s leave.” Rule 15 requires that leave to amend a complaint be freely granted when “justice so requires.” Fed. R. Civ. P. 15(a)(2).

4. Plaintiffs’ proposed Second Amended Complaint is annexed hereto as Exhibit A.

5. The proposed Second Amended Complaint seeks to remove four claims for relief, before the parties have engaged in discovery in this action.

6. The Defendants have informed Plaintiffs that they consent to Plaintiffs’ filing this Second Amended Complaint.

7. Plaintiffs sought to file this Second Amended Complaint on March 8, 2012, by filing the complaint (ECF No. 75) and the Stipulation to File a Second Amended Complaint (ECF No. 74). Plaintiffs were informed by the Court’s Clerk that it would be necessary to file a motion for leave to file the second amended complaint.

8. Accordingly, Plaintiffs seek the Court’s leave to file the attached Second Amended Complaint.

WHEREFORE, Plaintiffs respectfully request that this Court issue an order granting them leave to file the proposed Second Amended Complaint.

Dated: March 9, 2012

Respectfully submitted,

s/Katherine Lewis Parker

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of March, 2012, I electronically filed the foregoing PLAINTIFFS' MOTION FOR LEAVE TO FILE A SECOND AMENDED COMPLAINT with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to counsel for all

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